

1 WRIGHT, FINLAY & ZAK, LLP
2 Robert Riether, Esq.
3 Nevada Bar No. 12076
4 7785 W. Sahara Ave., Suite 200
5 Las Vegas, NV 89117
(702) 475-7964; Fax: (702) 946-1345
rriether@wrightlegal.net

5 *Attorneys for Plaintiff/Counter-Defendant Edward Brown*

6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 WILMINGTON SAVINGS FUND SOCIETY,
9 FSB, AS TRUSTEE FOR STANWICH
MORTGAGE LOAN TRUST A,

10 Plaintiff,

11 vs.

12 SATICOY BAY LLC SERIES 9338
13 WILDERNESS GLEN AVENUE;
14 YELLOWSTONE HOMEOWNERS
ASSOCIATION,

15 Defendants.

16
17 SATICOY BAY LLC SERIES 9338
WILDERNESS GLEN AVENUE,

18 Counterclaimant,

19 vs.

20 WILMINGTON SAVINGS FUND SOCIETY,
21 FSB, AS TRUSTEE FOR STANWICH
MORTGAGE LOAN TRUST A,

22 Counter-Defendant.

Case No.: 2:17-cv-01775-JCM-BNW

10 **STIPULATION AND ORDER TO RESET**
11 **BENCH TRIAL DATE**

23 Plaintiff/Counter-Defendant, Edward Brown ("Brown"), as substituted party for
24 Wilmington Savings Fund Society, FSB, as Trustee for Stanwich Mortgage Loan Trust A
25 ("Wilmington"), and Defendant/Counterclaimant Saticoy Bay LLC Series 9338 Wilderness Glen
26

1 Avenue (“Saticoy”) (collectively, the “Parties”), by and through their counsel of record, hereby
2 agree and stipulate as follows.

- 3
- 4 1. This is an action for quiet title and declaratory relief following an HOA foreclosure
5 sale. The parties dispute whether the HOA sale extinguished Wilmington/Brown’s
6 interest in the subject deed of trust recorded against the subject property.
 - 7 2. On August 25, 2022, this Court issued an order setting this case for a one-day bench
8 trial for March 27, 2023 at 9:00am (“Original Trial Date”) with calendar call set for
9 March 22, 2023 at 1:30pm. [ECF No. 120].
 - 10 3. On September 23, 2022, Brown facilitated recordation of a Notice of Default and
11 Election to Sell under Deed of Trust (“NOD”) related to the property at issue in the
12 case located at 9338 Wilderness Glen Avenue, Las Vegas, Nevada 89178 (the
13 “Property”).
 - 14 4. On December 28, 2022, Brown facilitated recordation of a Notice of Sale under Deed
15 of Trust related to the Property (“NOS”), setting a February 1, 2023 foreclosure sale
16 date (“Foreclosure Sale”).
 - 17 5. On January 13, 2023, Saticoy filed an Emergency Motion for Temporary Restraining
18 Order to stop the Foreclosure Sale, requesting a hearing date before January 30, 2023.
19 (“Emergency Motion”). [ECF No. 121].
 - 20 6. On January 13, 2023, in response to the Emergency Motion, and pursuant to Federal
21 Rules of Civil Procedure (“FRCP”) 65(a)(2), this Court issued an order (the “Order”),
22

23
24
25
26
27
28

1 advancing the Trial Date to January 24, 2023 at 9:00am (“New Trial Date”) with
2 calendar call on January 18, 2023 at 1:30pm. [ECF No. 122].

3 7. FRCP Rule 65(a)(2) authorizes consolidation of the trial on the merits and the hearing
4 on the Emergency Motion, and authorizes the Court to advance the trial on the merits
5 as the Court did here.

6 8. Upon receipt of the Order, the parties met and conferred for the purposes of complying
7 with the Order. Based on that conferral, the Parties agree that it is impracticable, if not
8 impossible, to complete trial on January 24, 2023. Specifically, a trial on the merits
9 may require the testimony of at least two prior loan servicers (BSI and Ocwen), the
10 current loan servicer, and Saticoy.

11 9. Based on their good faith discussion, counsel for the Parties do not reasonably believe
12 that the necessary witnesses can or will be prepared to present for trial on January 24,
13 2023. Several of the witnesses—in particular the prior and current loan servicers—are
14 out of state entities. Among other things, the Parties do not have sufficient time to
15 serve subpoenas and assure an appearance by January 24, 2023; additionally, counsel
16

17

18

19

20

21

22

23

24

25

26

27

28

1 for Brown is out of the state from January 20 through January 22 on a previously
2 planned personal family trip.

3 10. After conversing following the Order—and given the practicals of this matter and the
4 Parties' mutual desire to resolve this matter on the merits, the Parties hereby stipulate
5 and agree to resolve the Emergency Motion as follows:

- 6 a. Brown hereby agrees to postpone the February 1, 2023 Foreclosure Sale to a
7 date after the original March 27, 2023 trial date.
8 b. Saticoy hereby withdraws the Emergency Motion (and will also formally file a
9 notice withdrawing the Emergency Motion for completeness of record);
10

11 11. With the basis under FRCP 65(a)(2) for the Order now removed, the Parties hereby
12 respectfully request that this Court reset the New Trial Date back to the Original Trial
13 Date of March 27, 2023 at 9:00am (with Calendar Call on March 22, 2023 at 1:30pm)
14 as originally scheduled, thereby also vacating the required appearance of counsel at the
15 currently scheduled January 18, 2023 calendar call. This stipulation would also allow
16 the Parties to properly subpoena and confirm trial witness appearances as well as timely
17 prepare the necessary pre-trial order pursuant to Local Rule 16-3(b).
18

19 **IT IS SO STIPULATED.**
20

21 DATED this 17th day of January, 2023.

22 DATED this 17th day of January, 2023.

23 WRIGHT, FINLAY & ZAK, LLP

24 ROGER P. CROTEAU & ASSOCIATES,
LTD

25 /s/ Robert A. Riether

26 Robert Riether Esq.

Nevada Bar No. 12076

27 /s/ Roger P. Croteau

Attorneys for Plaintiff/Counter-Defendant,
Edward Brown

28 Roger P. Croteau, Esq.
Nevada Bar No. 4958
Attorneys for Defendant/Counterclaimant
Saticoy Bay LLC Series 9338 Wilderness
Glen Avenue

ORDER

Based on the aforementioned stipulation, this matter is reset for a one day bench trial on March 27, 2023 at 9:00am. Calendar call is reset for March 22, 2023 at 1:30p.m.

Consequently, the calendar call hearing on January 18, 2023 is hereby VACATED.

Pre-trial requirements are as follows: See the order regarding trial at ECF No. 123 ¶¶3-20

IT IS SO ORDERED January 17, 2023.

UNITED STATES DISTRICT JUDGE